



Appeal Decision

Site visit made on 7 February 2024

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd February 2024

Appeal Ref: APP/W0530/D/23/3331804

Wellingtons Retreat, High Street, Fen Drayton, Cambridgeshire, CB24 4SJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Ryan Day against the decision of South Cambridgeshire District Council.
 - The application Ref 23/02728/HFUL dated 13 July 2023, was refused by notice dated 16 October 2023.
 - The development proposed is two storey rear extension, front porch and associated works to include repainting the property and replacement windows.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The National Planning Policy Framework 2023 (the Framework) was revised in response to the Levelling-Up and Regeneration Bill: reforms to national planning policy consultation on 19 December 2023. The refusal reason makes generic reference to a section of the Framework, and it is not considered that this revision impacts upon the determination of this appeal given the main changes to the Framework and the main issue before me.
3. There are several elements to the appeal proposal, however, the refusal reason is specific to the proposed two storey rear extension. The Council's refusal is not based upon any of the other elements of the proposal, and I have no reason to conclude differently based upon evidence before me and my site visit. For the avoidance of doubt this decision letter will focus upon the main issue, outlined below, in relation to the proposed two storey rear extension.

Main Issue

4. The main issue is the impact of the proposal upon neighbouring residential amenity with regard to overbearing impact, sense of enclosure and overshadowing to the rear private amenity space.

Reasons

5. The appeal site is a two-storey, detached, dwelling within the development framework boundary and Conservation Area (CA) of Fen Drayton. The site is also located on the edge of Flood Zone 3 (high risk of fluvial flooding) as is in an area at high risk of surface flooding. Whilst I acknowledge these two site constraints the Council have raised no reason for refusal relating to flooding or impact upon the CA and I have no reason to conclude differently on these elements. The proposal is made up of several elements, as outlined above,

with one being a proposed two-storey rear extension. I note, from the submissions before me, that revisions were made to the scheme during the application process and I have, for the avoidance of doubt, considered the scheme on its own merits based upon the plans which are listed within the Council's decision notice.

6. The proposed rear extension would be adjacent to a residential dwelling, located to the south, known as Ash Tree House. The proposed two-storey extension would be less than a metre from the shared boundary with the neighbouring property at its closest point. I note, from the time of my site visit, that whilst the two properties are essentially parallel to each the shared boundary between the two properties is irregular and extends away from Ash Tree House towards the east at an angle. As a result of this, as can be seen from the submitted plans, the two-storey extension would be further from the boundary immediately adjacent to the host dwelling than the end of the proposed building line.
7. I note that the host dwelling already benefits from an original flat roof projection and the proposed extension would protrude approximately 4.5 metres from the rear of the property with the original flat roof projection retained with the roof being removed to allow for better quality materials. The proposal would have an overall height in the region of 7.2 metres and the two-storey extension would protrude approximately 3.55 metres, at two-storey level, from the rear building line of Ash Tree House.
8. I note the Council's consideration, and the appellant's submission, of plan reference SK01 which indicates that the proposal would pass the 45-degree rule horizontally to the rear dining room/living room window of Ash Tree House. Whilst this is acknowledged, the 45-degree rule aims to maintain a reasonable relationship between existing buildings and extensions, as well as preventing an excessive daylight loss or overshadowing to habitable rooms of neighbouring properties.
9. The Council's delegated report is specific in its acknowledgment that it is considered that the proposed extension would not result in an undue loss of light to the adjacent neighbour (Ash Tree House) in terms of habitable rooms. Based upon my site visit, and the plans before me, I have no reason to conclude differently with regard to habitable rooms. The refusal reason is, however, specific in its reference to overbearing impact, sense of enclosure and overshadowing to the rear private amenity space. The refusal reason is, therefore, based upon the garden area of Ash Tree House and not residential amenity of habitable rooms. This is a separate issue to the 45-degree rule.
10. At the time of my site visit, and from the plans before me, I found that the rear private amenity space of Ash Tree House appears to be of a smaller scale than the appeal site and others within the vicinity. The adjoining garden tapers significantly towards the rear and, when stood within the appeal site, the trees which the Council refer to (on the southern boundary of the neighbouring garden) are notable in height along the entire southern boundary. The trees fall outside the control of Ash Tree House, which means that the occupiers, have no control over them and the trees are also located within the CA which provides further restrictions as to their ability to be removed and or managed.
11. Due to the scale of the trees, I found, from the appeal site, that the existing usable garden space of Ash Tree House appeared more limited, and I find that

the trees would already provide a significant amount of overshadowing to the neighbouring dwelling on the southern boundary. This means that there is greater emphasis /importance placed upon the only open boundary located to the north which is shared with the appeal site. As a result of this, the introduction of a two-storey rear extension at an overall height of approximately 7.2 metres would, when combined with the trees on the southern boundary, form an overall sense of enclosure to the amenity space of Ash Tree House which I find would be detrimental to the living conditions of neighbouring occupiers with regard to a sense of enclosure and general overbearing impact.

12. This would be further exacerbated by the fact that, due to the site factors outlined above, the usable/main private amenity space is located along the northern boundary close to the rear wall of the Ash Tree House which is likely to cause unacceptable overshadowing impact on the private amenity space. This, combined with a sense of overbearing impact and enclosure, would result in further unacceptable impacts to neighbouring residential amenity.
13. Whilst I acknowledge, from my site visit, that there is an existing brick wall which is approximately 2 metres in height on the shared boundary, I do not find that the central pitch design minimises the height of the adjacent built form which is proposed. The proposed side elevations are shown in the context of the brick boundary wall, with the height agreed by the appellant's statement as being 2 metres, which I find adds perspective as to the significance of the proposed rear extension when viewed from the side which would face, and run along the boundary of, Ash Tree House.
14. The revisions are noted to have increased the separation distance to the southern boundary of the appeal site; however, I do not find that the separation distance proposed when considering overall height would be sufficient to result in acceptable impact to the neighbour's patio/private amenity space. The separation is noted to increase the closer the built form would get to the neighbour's patio, however, the separation in question would still only be in the region of 1.2 metres with an overall height which is notably taller than the existing flat roof projection, combined with a continuation of this height for an additional 3.55 metres at two storey level from the rear building line of Ash Tree House.
15. I acknowledge that Ash Tree House is to the south of the appeal site, but in the absence of specific evidence I am not convinced that the proposed extension would result in impacts which are unlikely to be significantly detrimental. The appellant notes that the trees are relatively large and asserts that the impact of the extension would make no greater difference nor further increase overshadowing. Even if I had agreed with the appellant with specific regard to the impact of neighbouring residential amenity in terms of overshadowing the appeal would, on this occasion, still fail due to the impacts which I find would occur as a result of unacceptable overbearing impact and sense of enclosure to the rear private amenity space of the neighbour for the reasons outlined.
16. The proposal would be contrary to South Cambridgeshire Local Plan 2018 Policy HQ/1 which requires that proposals should protect the amenity of occupiers and surrounding uses from development that is overbearing or results in a loss of daylight. The proposal would also be contrary to paragraph 135 of the Framework which outlines that planning policies and decisions, should ensure

that developments create places with a high standard of amenity for existing and future users.

Other Matters

17. An objection is noted which raises maintenance of the property, however, this is not a material consideration within this appeal. I have dealt with matters relating to residential amenity within the main issue above. The Parish Council comments are noted. I would reiterate that this appeal seeks to assess the proposed two storey extension with regard to residential amenity – no further issues have been raised by the Council and I have no reason or evidence to conclude differently on any other matters.
18. I note that the appellant is stated to have already put a significant investment into the historic property in fixing areas of poor construction and low-quality materials and seeks to extend in order to deliver a family home. Whilst this is acknowledged, unfortunately this does not overcome the harm which I have found with regard to neighbouring residential amenity as a result of the scale of the rear extension which is proposed in this case.
19. The Council's refusal reason references the South Cambridgeshire District Design Guide (2010) Supplementary Planning Document (SPD); however, the delegated report does not assess the proposal in the context of the SPD document nor has a copy of the relevant SPD been submitted as part of the Council's documentation.

Conclusion

20. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR